

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANDREW U.D. STRAW,

Plaintiff,

v.

AVVO, INC.,

Defendant.

CASE NO. C20-0294JLR

ORDER

Before the court is a referral notice from the Ninth Circuit Court of Appeals (9th Cir. No. 21-35848 (Dkt. # 6)) requesting that this court determine whether Plaintiff Andrew U.D. Straw's *in forma pauperis* status should continue during his appeal or whether his appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."); *see also* Fed. R. App. P. 24(a)(3)(A). An appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989).

1 On August 27, 2020, the court granted Avvo's motion to dismiss Mr. Straw's
2 amended complaint and granted Mr. Straw leave to amend. (*See* 8/27/20 Order (Dkt.
3 # 44).) Mr. Straw filed his second amended complaint on August 28, 2020. (*See* 2d Am.
4 Compl. (Dkt. # 45).) On November 9, 2020, the court granted Avvo's motion to dismiss
5 Mr. Straw's second amended complaint—this time with prejudice and without leave to
6 amend—because Mr. Straw did not address the deficiencies identified in the court's prior
7 order. (*See* 11/9/20 Order (Dkt. # 55); *see also* Judgment (Dkt. # 56).) Mr. Straw
8 appealed the dismissal to the Ninth Circuit Court of Appeals. (*See* Not. of Appeal (Dkt.
9 # 57).) His appeal is still pending. (*See generally* Dkt.)

10 On April 2, 2021, Mr. Straw moved for the recusal of the undersigned. (1st Mot.
11 to Recuse (Dkt. # 59).) Chief Judge Ricardo Martinez affirmed the undersigned's order
12 declining voluntary recusal and denied Mr. Straw's motion for reconsideration of that
13 order. (*See* 1st Order Denying Voluntary Recusal (Dkt. # 60); 1st Order Affirming Order
14 Declining to Recuse (Dkt. # 61); 1st Order Denying Mot. to Reconsider (Dkt. # 63).)

15 On October 5, 2021, Mr. Straw again moved for the recusal of the undersigned
16 pursuant to 28 U.S.C. § 144. (*See generally* 2d Mot. to Recuse (Dkt. # 65).) He argued,
17 as he did in his first motion for reconsideration, that the undersigned must be removed
18 from this case due to "political facts," including a vast Republican conspiracy against him
19 made up of attorneys at Avvo's counsel's law firm; judges in Indiana, the Seventh Circuit
20 Court of Appeals, and this district; and managers of an alleged parent company of Avvo.
21 (*See* 2d Mot. to Recuse at 1, ¶ 1 (citing 2d Mot. for Reconsideration (Dkt. # 64), Exs. A
22 & B); 2d Mot. for Reconsideration ¶¶ 2, 5-7, 9-10, 13-14, 16, 20.) Mr. Straw also

1 reasserted his prior argument that recusal is necessary because one of this court's prior
2 law clerks began to work for Avvo's counsel's law firm after his clerkship ended. (*See*
3 2d Mot. for Reconsideration ¶ 21.)

4 The undersigned again declined to voluntarily recuse himself because he "harbors
5 no bias against Mr. Straw or in favor of Avvo or its attorneys." (2d Order Denying
6 Voluntary Recusal (Dkt. # 67) at 4.) As the court stated in its second order denying
7 voluntary recusal, Mr. Straw's "'baseless speculation' about a Republican conspiracy
8 against him 'does not serve . . . as a basis for judicial disqualification,'" and "the fact that
9 a former law clerk now works for a law firm that represents a party in a matter before the
10 court does not, without more, provide a basis for recusal." (*See id.* (first citing 1st Order
11 Denying Mot. to Reconsider at 2-3; and then citing *Omni Innovations LLC v.*
12 *Smartbargains.com LP*, No. C06-1129JCC, 2009 WL 3248084, at *2 (W.D. Wash. Oct.
13 9, 2009)).) That same day, Mr. Straw filed a notice of appeal of the court's second order
14 denying voluntary recusal. (NOA (Dkt. # 68).)

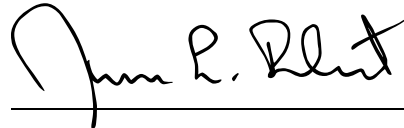
15 Accordingly, the court CERTIFIES that Mr. Straw's appeal of the court's second
16 order denying voluntary recusal is frivolous and not taken in good faith. For this reason,
17 Mr. Straw's *in forma pauperis* status should not continue during his appeal. Pursuant to
18 Federal Rule of Appellate Procedure 24(a)(4), the court further DIRECTS the clerk to
19 send a copy of this order to Mr. Straw and the Ninth Circuit Court of Appeals.

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1 Dated this 8th day of November, 2021.

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4 JAMES L. ROBART
5 United States District Judge
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